



FORT SAM HOUSTON LEGAL ASSISTANCE OFFICE **FORMAL AND POST FORMAL PEB COUNSELING**

The purpose of this information paper is to inform you of the procedures of your Formal Board and your legal rights following a Formal PEB Hearing.

Your initial contact from the PEB legal staff will be from Mr. Nichols, the PEB paralegal. Mr. Nichols contacts each client and confirms your appointment with the attorney and your board date. He will answer any general questions you may have regarding your case and inform you if there is any new additional documentation you should bring to your hearing. It is essential that you keep your PEB Liaison Officer (PEBLO) updated with your current contact information throughout the PEB process. Please keep in mind that we cannot contact you if we do not have accurate phone numbers.

Your attorney will typically contact you approximately one week before your scheduled hearing date if the counsel has any questions regarding your case. If you have not heard from the attorney and you have questions or concerns regarding your case you may call the office at DSN 471-9392, Commercial 210-221-9392, or Toll-Free 1-800-531-1114, ext. 9392. If you have new medical documentation that supports your contentions, please bring it with you to your scheduled appointment for the attorney to review. You may also fax us any new medical documentation in advance of your appointment at DSN 421-0256 or Commercial 210-295-0256.

Soldiers will usually meet with their attorney the day before the scheduled hearing at 1300 hrs. We are located in Building 198 at the intersection of Stanley and Wilson Roads. All clients may appear in civilian attire for this meeting. Please bring all new documentation with you to the meeting for your attorney to review. You will be asked to sign a Privacy Act statement the day you meet with your legal counsel. If you have any questions regarding this statement please ask your counsel.

You will need to appear in proper military uniform for your formal hearing. For Active Duty, USAR and ARNG members, proper military uniform includes BDUs, ACUs or DBDUs. TDRL clients will appear in civilian attire. Any requests for exceptions to this policy must be approved in advance by the President of the Physical Evaluation Board. Please ensure that all awards, badges, tabs, patches, etc., that appear on your uniform are supported by your personnel record and are in proper order.

When you enter the Board room on the day of your hearing you will need to report to the President of the Board. Soldiers in uniform should salute and state, "rank and name reporting to the President of the Board." Soldiers coming off of the TDRL, who are in civilian attire, should stand at attention and introduce themselves.

The Board consists of three members: the President, a Medical Member, and a Personnel Management Officer. During the proceedings of the formal board, proper military courtesy should be used when addressing the members. Also remember that if you are under oath, any statements made are official recorded statements and therefore can be used against you in future proceedings.

You will be asked to state your name, rank, social security number and unit of assignment for the record. In addition you will be asked if you understand your rights under the Privacy Act and will testify under oath. If you have any objections to testifying under oath, please discuss this with your attorney on the day of your appointment.

A majority of your testimony will be presented in the form of questions from your attorney that you will answer regarding your condition. When the attorney has completed the presentation of the case, each Board member will have the opportunity to ask you questions if you are testifying under oath. There will also be an opportunity for you to make a brief statement if there is something that your attorney has not covered that you want on the record.

The Board will dismiss the soldier for deliberations. The soldier should stand, come to attention, salute and say "Sir/Ma'am, Thank you for your time." At this time the Board will deliberate behind closed doors. The Board has many options which include increasing percentages, decreasing percentages, or finding a soldier fit for duty regardless of the soldier's contention. When the Board is finished deliberating, the soldier and counsel will re-enter the board room to hear the results. When the soldier enters the board room again, he or she will not need to report but should again come to attention, salute and say "Good day, Sir/Ma'am." The Board will read their recommendations to the soldier and close the Board. Again the soldier should stand, come to attention and salute and say "Thank you, Sir/Ma'am" before exiting the board room.

At the conclusion of your hearing you will be presented with an updated DA Form 199, which contains the findings of the Formal Board. You will be asked to complete the DA Form 199 by making an election regarding the findings of your Formal Board. Your options will include concur, non-concur, or non-concur and submitting additional information. You do not have to make an election immediately following the Boards decision. You have the option of taking 10 calendar days to make an election. If you choose to take your 10 days, please fax in your response through your PEBLO.

The PEB's findings are recommendations to the Physical Disability Agency (PDA) which is the final decision maker. Therefore, all packets are sent from the PEB to the PDA for review. The PDA can decide to change the PEB's recommendations to a **higher or lower** percentage or find the soldier **fit or unfit for duty**.

Information contained in this article is general in nature and does not constitute legal advice. If you have any questions regarding this process, please call our office.

FSH PEB Soldier's Counsel